

JOURNAL OF THE HOUSE.

Monday, April 26, 2004.

Met at twelve minutes after ten o'clock A.M.

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, in Whom we place our trust and hope, we begin this legislative session with the desire and the intention of serving You and the people whom we represent faithfully and presently. Your assistance enables us to recognize and to face up to the complex, often emotional issues of the uncertain times. Your always available guidance and our conscientious common sense judgements help us to build confidence, serenity and goodwill in the hearts and minds of the electorate in our diverse society. In addressing today's budget priorities teach us to use our limited material resources wisely and creatively. Inspire us to be leaders who correctly read the signs of the times in addressing both current needs and in planning for the future of the people of the Commonwealth.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Message from the Governor — Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill relative to parking fines in the city of Haverhill [see House, No. 4210] (for message, see House, No. 4693) was filed in the office of the Clerk on Friday April 23.

Haverhill,
parking
fines.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon "before the General Court and subject to amendment and re-enactment".

Pending the question on adoption of the amendment recommended by His Excellency, the bill was referred, on motion of Mr. Dempsey of Haverhill, to the committee on Bills in the Third Reading.

Message from the Governor — Veto.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill relative to criminal offender record information checks for assisted living employees [see House, No. 4390, amended] (for message, see House, No. 4694) was filed in the Office of the Clerk on Friday, April 23.

Assisted
living
employees.

The message was read; and, under House Rule 12, placed in the Orders of the Day for the next sitting, the question being on passing the bill, notwithstanding the said objections.

Statement Concerning Representative Connolly of Everett.

Statement concerning Representative Connolly of Everett.

A statement of Mr. DiMasi of Boston concerning Mr. Connolly of Everett was spread upon the records of the House, as follows:
MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Connolly of Everett, will not be present in the House Chamber for today's sitting due to a previously scheduled one-day surgical procedure. Any roll calls that he may miss today is due entirely to the reason stated.

Guests of the House.

Guests of the House.

During the session, the Speaker declared a brief recess and introduced White House Chief of Staff Andrew Card, a former member of the House. Mr. Card, accompanied by his wife, Cathy, then addressed the House briefly. They were the guests of the Speaker.

Resolutions.

Knights and Ladies of St. Finbarr.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:
Resolutions (filed by Representatives Casey of Winchester, Creedon of Brockton, Fallon of Malden, Kaprielian of Watertown, Parente of Milford and Toomey of Cambridge) congratulating the Knights and Ladies of St. Finbarr on the occasion of their one hundredth anniversary;
Resolutions (filed by Messrs. Kafka of Stoughton and Galvin of Canton) congratulating Anthony L. Sarno, Jr.;
Resolutions (filed by Mr. Koczera of New Bedford) congratulating Arthur J. Caron, Jr., on the occasion of his retirement;
Resolutions (filed by Mrs. Poirier of North Attleborough) honoring H. Mason Hedberg; and
Resolutions (filed by Mr. Quinn of Dartmouth) honoring the memory of Sister Madeleine Clemence Vaillot;
Mr. Petrolati of Ludlow, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Quinn, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Anthony L. Sarno, Jr.

Arthur J. Caron, Jr.

H. Mason Hedberg.

Madeleine Clemence Vaillot.

Order.

The following order (filed by Mr. Casey of Winchester) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:
Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Taxation be granted until Friday, May 28, 2004, to make its final report on current House document numbered 4485.
Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. O'Brien of Kingston, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

Taxation committee, extension of time for reporting.

Petitions.

Petitions severally were presented and referred as follows:
By Mr. Donelan of Orange, petition (accompanied by bill, House, No. 4695) of Christopher J. Donelan and Stanley C. Rosenberg (with the approval of the town council) that the town of Greenfield be authorized to grant an additional license for the sale of alcoholic beverages to James Burke d/b/a Harper Package Store. To the committee on Government Regulations. *Greenfield, liquor licenses.*
By Mr. O'Flaherty of Chelsea, petition (accompanied by bill, House, No. 4696) of Eugene L. O'Flaherty (with the approval of the city council) that the city of Chelsea be authorized to grant tax exemptions to certain owners of real property in said city. To the committee on Taxation. *Chelsea, real property.*
Severally sent to the Senate for concurrence.
Mr. Finneran of Boston presented a petition (subject to Joint Rule 12) of Thomas M. Finneran, John H. Rogers and other members of the House for a legislative amendment to the Constitution creating a permanent "Rainy Day" fund to provide stable revenues for the Commonwealth; and the same was referred, under Rule 24, to the committee on Rules. *Rainy day fund.*
Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Rogers of Norwood, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by proposal) was referred to the joint committee on Ways and Means. Sent to the Senate for concurrence.
Petitions severally were presented and referred as follows:
By Mr. Binienda of Worcester, petition (subject to Joint Rule 12) of John J. Binienda and other members of the General Court for legislation to increase the penalty for persons convicted for the crime of motor vehicle fuel theft. *Motor fuel theft.*
By Mr. Correia of Fall River, petition (subject to Joint Rule 12) of Leo H. LeDuc and Robert Correia for legislation to increase from two to four thousand dollars for small claims in the District Court Department of the Trial Court. *Small claims procedure.*
By Mr. Costello of Newburyport, petition (subject to Joint Rule 12) of Michael A. Costello and Steven A. Baddour for legislation to establish a sick leave bank for Jamie Richard, an employee of the Department of Social Services. *Jamie Richard, sick leave bank.*
By Mr. Goguen of Fitchburg, petition (subject to Joint Rule 12) of Emile J. Goguen for adoption of resolutions by the General Court requesting the Governor (with the approval of the Council) to remove from office Margaret H. Marshall, Chief Justice of the Supreme Judicial Court, and Roderick L. Ireland, John M. Greaney and Judith A. Cowin, associate justices of said court. *Removal of Supreme Court Justices.*
By Mr. Keenan of Southwick, petition (subject to Joint Rule 12) of Daniel F. Keenan relative to the jurisdiction of county highways in the town of Granville. *Granville, county highways.*
Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

Bills
Clarifying the powers and duties of the Charlton water and sewer commission (Senate, No. 2222) (on a petition) [Local Approval Received]; and
Merging the South Sagamore Water District with the Bourne Water District (Senate, No. 2226, amended in section 3, in lines 1 to 4, inclusive, by striking out the sentence contained therein and inserting in place thereof the following sentence: "Section 1 shall take effect on July 1, 2004, if accepted before that date at a meeting of the Bourne water district at which persons constituting the water district as established by this act shall be entitled to vote."; and by adding at the end thereof the following section:
"SECTION 4. Section 2 of this act shall take effect upon its passage.") (on a petition);
Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Engrossed Bill.

The engrossed Bill providing for cigarette escrow compliance (see House, No. 4327, amended) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Orders of the Day.

The Senate Bill relative to the computerization of the examination for certification for the practice of public accountancy (Senate, No. 2210, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.
The House Bill providing for the annual observance of Guardian's Day (House, No. 4482), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600) was considered.
Pending the question on ordering the bill, as amended, to a third reading, Mr. Ruane of Salem asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.
Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 134 members were recorded as being in attendance.

[See Yea and Nay No. 589 in Supplement.]

Therefore a quorum was present.

After remarks on the question on ordering the bill to a third reading, Representatives Walrath of Stow and Bosley of North Adams moved that it be amended by adding at the end thereof the following section:
"SECTION 110. Section 18 of Chapter 138 of the General Laws, as most recently amended by section 413 of chapter 26 of the Acts of 2003, is hereby further amended by striking the last sentence of the first paragraph and inserting in place thereof the following:—
The annual license fee for a license to sell and import wines and malt beverages only issued under this section shall be computed based on the gallonage sold as follows: 7,500 gallons or less per annum—thirty five hundred dollars; more than 7,500 and less than 10,000 gallons per annum—four thousand dollars; and more than 10,000 gallons per annum—five thousand dollars.
Every applicant for such a license shall, at the time of filing an application, pay a license fee based on a reasonable estimate of the amount of wine and malt beverages to be sold or imported during the year covered by the license. Persons holding such licenses shall report annually at the end of the year covered by the license the amount of wine and malt beverages sold or imported during such year. If the total amount of such wine and malt beverages exceeds the amount permitted by the fee already paid, the licensee shall pay whatever additional fee is owing under this section."
The amendment was adopted.
Mrs. Parente of Milford then moved that the bill be amended by adding at the end thereof the following section:
"SECTION 111. Chapter 75 of the General Laws is hereby amended by inserting after section 34 the following section:—
Section 34A. If tuition for the medical school is set at a lower amount for residents of the commonwealth, a resident shall be deemed to be a person who has resided in the commonwealth for 7 consecutive years or more prior to enrollment or a person whose immediate family has resided in the commonwealth for 7 consecutive years or more prior to his enrollment."
The amendment was adopted.
Mr. Donelan of Orange then moved that the bill be amended by adding at the end thereof the following section:
"SECTION 112. Section 38 of chapter 262 of the General Laws, as amended by section 51 of chapter 4 of the acts of 2003, is hereby further amended by adding the following paragraph:—
No city or town shall be required to pay any fees for recording, filing or deposit of any instrument."
The amendment was rejected.
Mr. Rodrigues of Weymouth and other members of the House then moved that the bill be amended by adding at the end thereof the following section:
"SECTION 112. Chapter 94, section 184B, as so appearing, is hereby amended by inserting at the end thereof the following definition:
'Retail Store', a store selling any item at retail including any businesses selling non-food items under other applicable Massachusetts law and regulations. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not

required to collect sales tax on transactions with members. Pursuant to this section a retail store shall not include any store which engages primarily in the sale of food for consumption on the premises or in a specialty trade.

Chapter 94, section 184C, as so appearing, is hereby amended by inserting the following words ‘, retail store’ after the word ‘store’ in line 2.

Chapter 94, section 184C, as so appearing, is hereby amended by striking subsection (10) in its entirety and replacing it with the following:

(10) Items that are located in end-aisle or other freestanding displays; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system they are on an easily referenced price list at each cash register; and provided, further, that such items are fully and accurately price marked at their regular shelf location, and the seller maintains a list of such items as required by section one hundred and eighty-four D.

Chapter 94, section 184C, as so appearing, is hereby amended by inserting at the end thereof the following sections:

(11) Unpackaged items sold by length or area, such as chain, rope, flooring, lumber or fabric on a bolt, with a clear and conspicuous ‘price per’ marked on the bolt or at the point of display.

(12) Unpackaged items sold by weight or volume from a bulk container or source, such as stone or soil, with a clear and conspicuous ‘price per’ marked on the container or at the point of display.

(13) Items that must be retrieved for the consumer by store staff, such as large electronics or appliances, where the display or representative items or items displayed in a locked case or out of reach of consumers.

(14) Packaged self-service items that are small in size and are offered for sale within five feet of the cash register, with a clear and conspicuous ‘price per’ marked on the container or at the point of display.

(15) Unpackaged items which have a weight of not more than 3 ounces, and/or a price of not more than 75 cents, with a clear and conspicuous ‘price per’ marked on the container or at the point of display.

(16) Live animals and items sold in a coin operated vending machine, with a clear and conspicuous ‘price per’ marked on the container or at the point of display.

(17) Items offered temporarily at an advertised reduced price.

(18) An additional 5% of items offered for sale, provided that a clear and conspicuous separate sign or a single sign in the case of similar items all priced the same, with the price no smaller than three eighths of an inch high, is placed at the point of display of each exempted sale item, identifying the item by its brand name and model number, if applicable, and SKU or UPC number; and further provided, that the store maintains a current and accurate price list of all items exempted under this provision. The seller may maintain such a list in any reasonable manner, provided that information contained on the list can be referenced easily by the person requesting

it. The seller shall make the list available at the service desk for public inspection. An SKU number may substitute for the UPC number if the SKU is marked on the item.

Chapter 94, section 184D, as so appearing, is hereby amended by inserting the following words ‘or retail stores’ after the phrase ‘food stores or food departments’ in lines 2, 43, and 49 in each instance.

Chapter 94, section 184D, as so appearing, is hereby amended by inserting the words ‘or retail store’ after the phrase ‘food store and food department’ in line 26.

Chapter 94, section 184E, as so appearing, is hereby amended by inserting the words ‘or retail store’ after the phrase ‘food store and food department’ in lines 3, 5, 23, 28, 33 and 51 in each instance.

Chapter 94, section 184E, as so appearing, is hereby amended by inserting the words ‘or retail stores’ after the phrase ‘food stores and food departments’ in line 49.

Chapter 94, section 184E, as so appearing, is hereby amended by inserting the words ‘, retail stores’ after the words ‘food stores’ in line 60.

Chapter 94, section 184E, as so appearing, is hereby amended by striking the second sentence of the first paragraph and replacing it with the following sentence: ‘Notwithstanding the provision of any law or regulation to the contrary, violations of section 184C shall be punished for the first offense by a fine of \$200, for the second offense by a fine of \$500, and for a subsequent offense, by a fine of \$1,000.’

Chapter 94, section 184E, as so appearing, is hereby amended by striking the third sentence of the first paragraph and replacing it with the following sentence: ‘Notwithstanding the method for determining the amount of civil fines pursuant to section 29A of said chapter 98 and notwithstanding the provision of any law or regulation to the contrary, a civil citation may be issued for not less than \$100 and not more than \$200 for each violation, up to a maximum of \$5,000 per inspection.’

Chapter 94, as so appearing, is hereby amended by inserting at the end thereof the following sections:

Section 329A.

(a) ‘Deputy Director’ shall mean the Deputy Director of the division of standards.

(b) ‘Person’ shall mean an individual, firm, partnership, association or corporation.

(c) ‘Division’ shall mean the division of standards.

(d) ‘Computer-assisted check out system’ shall mean any electronic device, computer system or machine which determines the selling price of any item interpreting its universal product code, any other code, or by any other use of a price look-up function.

(e) ‘Inspector’ shall mean the Deputy Director or authorized agent to enforce the provisions of this chapter.

(f) ‘Item price’ shall mean the lowest indicated price on a shelf tag, sign or advertisement.

(g) ‘Price look-up function’ shall mean the capability of any checkout system to determine the retail price of an item electronically or by way of the manual entry into the system of a code

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number assigned to that particular unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

(h) 'Retail store' shall mean a store selling any item at retail including food and non-food items. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. Pursuant to this section a retail store shall not include any store which engages primarily in the sale of food for consumption on the premises or in a specialty trade, which the Deputy Director determines, by regulation, would be inappropriate for item pricing.

(i) 'Item' shall mean a specific and distinct product, good or commodity. One item is differentiated from another by having a different universal product code for items so coded, and for items not so coded, the item has any distinguishing characteristics compared to another item.

(j) 'Electronic product coding' shall mean any system of coding which entails electronic pricing.

(k) 'Self-service price check scanner' shall mean a device to be utilized by shoppers which reads the electronic or universal product code on a product, retrieves the correct price from the seller's automatic checkout system or computer, displays the correct price on a readout panel, and has either a grease pencil attached to the device for shoppers to use in marking the price on an item or an alternative method by which a shopper may record the price of an item. Such alternative method shall be subject to the approval of the Deputy Director.

(l) 'Self-service price check scanner with printing capabilities' shall mean a device to be utilized by shoppers which reads the electronic or universal product code on a product, retrieves the correct price from the seller's automatic checkout system or computer, displays the correct price on a readout panel, and is capable of printing an adhesive price sticker with the correct price and product description.

Section 329B.

(a) No retail store shall charge a price for any item, which exceeds the lowest of any item, shelf, scanned, sale or advertised price of such item. In the event that the price charged exceeds the lowest price a store is permitted to charge for the item, the store will be subject to a penalty as described in this chapter and other applicable law at the discretion of the Deputy Director.

(b) In a store utilizing computerized laser scanning or other electronic assisted checkout system, the inspector shall be permitted to compare the item, shelf, sale, or advertised price of any item sold in the store with the programmed price.

(c) The Deputy Director shall establish a randomized store inspection procedure designed to eliminate any bias in selecting stores to be inspected for price auditing purposes. However, any retail store may be inspected at any time upon complaint or if the Deputy Director has sufficient cause to audit a particular store or stores to ensure pricing accuracy.

Section 329C.

(a) Every person, store, firm, partnership, corporation, or association which uses a computer-assisted checkout system and which would otherwise be required to item price as provided in sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law or regulation promulgated hereunder, may make an application in writing to the Deputy Director for a waiver of said item pricing requirement. A separate application shall be required for each store. An annual registration fee must be submitted with the initial application and subsequent renewal. The Deputy Director shall approve or reject the application within sixty days from the date of receiving the application. If the application is rejected, the application fee shall be returned. Pursuant to the regulations promulgated under this chapter, the Division will require that each applicant complete a 'no job loss' affidavit stating the number of people employed at the time of the application process. After the filing of the affidavit, if there is any resulting job loss at the store due to the implementation of the waiver, not attributed to seasonal employment or verifiable economic pressures, the store will be required to item price pursuant to sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law or regulation promulgated hereunder, and be subject to a fine of not more than five thousand dollars.

(b) The registration fee is based upon the number of cash registers in each store as set according to the following schedule and exemption:

- i. Waiver Fee Cash Register Schedule:
 - One to four cash registers \$2,500
 - Five or more cash registers \$5,000

ii. An applicant shall be exempt from submitting the annual waiver fee if shown at the time of each application to be a retail store with an annual sales revenue equal to or less than \$5,000,000 of in-store sales, as verified by its most recent Massachusetts tax return. For a retail store with more than one location engaged in a unitary business, such sales volume shall be reported as the aggregate of all sales reported by all locations.

(c) Waiver applications and the required fee or acceptable proof of fee exemption must be received at the division by October 1, 2004, and annually thereafter. Stores that fail to comply with the required registration, do not renew an application, or fail to pay the annual renewal fee will be subject to the item pricing requirements and violations pursuant to sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law.

(d) A waiver from item pricing shall be valid for a period of one year from the date of issuance. Stores must reapply annually for renewal of waiver at the rates and procedures established in section 329C(b).

(e) Systems approved by the Deputy Director must have means to provide an audit trail regarding item price changes that can be accessed by state enforcement agents upon request. All food and grocery item prices once entered into the store's electronic pricing system shall remain unchanged for a minimum of seventy-two

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hours, unless the price is to be reduced or is the result of a gross pricing error as defined in chapter 94, section 184B.

(f) Any registered retail store that fails to meet the stated price accuracy standard of 98 per cent, not including any under charges, based on the price accuracy inspection procedure adopted by the Division shall be re-inspected after thirty days of the failed inspection. If the store fails upon re-inspection to meet the price accuracy standard, the registration of such store may be suspended for a period of six months. During the suspension period, the store will be required to individually item price every item offered for sale pursuant to sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law. After payment of fifty percent of the original application fee as provided for in section 329C(b), the store can request the Division in writing to be re-inspected. If the store after re-inspection meets the price accuracy standard, the registration may be re-instated.

(g) As a condition of the waiver from item pricing pursuant to this section, each retail store which accepts a waiver must agree to meet the following requirements:

i. The store shall designate and make available self-service price check scanners to enable consumers to confirm the price of an item. Stores that are arranged in an aisle format shall have one self-service price check scanner located on one end of every other aisle in those areas exempted under the waiver. Stores that are arranged in a format other than in aisles shall have one self-service price check scanner per five thousand square feet in those areas exempted under the waiver. Stores that are arranged in a combination of aisles and other formats shall have a number of self-service price check scanners that is within the discretion of the Deputy Director. All stores shall have at least two self-service price check scanners. At least one of the self-service price check scanners shall have printing capabilities. These self-service price check scanners shall be strategically located in locations convenient to consumers with signs of sufficient sized lettering identifying these units to consumers. Stores will submit their proposed sign and device locations in a schematic diagram to the Deputy Director for approval with the waiver application.

ii. The store shall place a clear and conspicuous separate sign, shelf tag or unit price tag for the item, or a single sign in the case of similar items all priced the same, with the price no smaller than three eighths of an inch high, at the point of display of each such item, disclosing the price or discount of such item and information sufficient to identify the item which may include the brand name, model number if applicable, or electronic product code.

iii. Each registrant shall verify the accuracy of all sale prices in the store's electronic processing system prior to the start of any sale. Each registrant shall either assign an employee to check all sale prices in the store's electronic pricing system prior to the start of any sale and maintain a sale price log including the following: name of the store employee, date the employee performed the pre-sale price accuracy audit, and the signature of the employee; or establish a reasonable process to verify the accuracy of all sale prices prior to the start of any sale subject to guidelines established by the Deputy

Director. Failure to establish such a process or make that process available upon request by any authorized agent of the Deputy Director may be cause for registration suspension.

iv. The store shall not charge any customer a price for any item, which exceeds the item, shelf, sale or advertised price.

v. The store shall make prompt payment to consumers who have been overcharged and shall correct all pricing errors identified by consumers, guaranteeing the consumer the item free if it costs less than \$10 or \$10 off the item if the item costs more than \$10. The price accuracy guarantee must be conspicuously posted at each cash register and at each self-service price check scanner.

vi. If an item rings up higher than the lowest advertised price, the store will be subject to a fine of no more than \$200.

vii. If a store fails to post the required item price sign at the point of display, the store will be subject to a fine of not more than \$100 per item. However, if the item, which was a result of the failure to post a required item price sign at the point of display, rings up at a price higher than the lowest price charged for that item during the previous thirty days, the fine will be increased to no more than \$200.

viii. For items that cannot easily be carried to an electronic scanner because of their size or weight, the seller must provide a scannable card or other device at the point of display of the item, so that a consumer can take the card or device to the self-service price check scanner.

ix. Each registrant shall make available to customers written information explaining the item pricing waiver and use of self-service price check scanners. Stores shall submit their proposed written information to the Deputy Director for approval with the waiver application.

(h) In no event shall a single act or violation of sections 329A through D inclusive, or 184B through E inclusive or section 56D of Chapter 98 result in the imposition of multiple fines or penalties.

(i) The Deputy Director, in his discretion, may revoke a waiver from item pricing for cause including but not limited to any of the following reasons:

- i. Failure to comply with any provisions of this chapter;
 - ii. Deliberate overcharging of any consumer; or
 - iii. Material misrepresentation in the application for a waiver.
- Section 329D.

(a) The provisions of this chapter shall be enforced by the division. Upon representation of appropriate credentials, the division's inspectors and agents shall have the right to enter upon the premises of any retail store to make an inspection and to determine compliance with the provisions of this chapter.

(b) For the purpose of determining a store's compliance with the requirement to disclose the item price to the consumer, an inspection shall be conducted of a sample of no less than twenty-five items.

(c) No item shall be cited more than once in a forty-eight hour period for not disclosing the item price to the consumer.

(d) For any inspection under section 329B, the store representative shall afford the inspector access to the test mode of the checkout system in use at that store or to a comparable function of said

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system and to the retail price information contained in a price look-up function.

(e) The inspector shall have the authority to issue a stop sale order with respect to any item being used, handled, or offered for sale in violation of section 329B and for not disclosing the item price to the consumer. Any such order shall be in writing and direct that the item shall be removed for sale pending price correction.

(f) The division shall retain up to ten percent of all registration fees and fines collected not to exceed \$2,000,000 annually. The retained revenue collected may be used by the division to support its enforcement activities and for grants to approved agents to assist the division in the enforcement of the provisions of this law. Any revenue generated on an annual basis over this amount shall revert to the General Fund.

(g) A hearing may be requested in writing on any fineable violation or registration suspension issued by the division. The division's designated hearing officer will conduct the hearing. The division's designated hearing officer shall make a written determination. Such determination may be appealed to the Deputy Director who, after due deliberation, shall issue an order accepting, modifying, or rejecting the hearing officer's determination. If the grounds for appeal are determined to be without reasonable basis, the fine shall be doubled."

The amendment was rejected.

Mr. Patrick of Falmouth and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 112. Paragraph G of section 5K of chapter 111 of the Massachusetts General Laws as amended by section 1 of chapter 425 of the Acts of 2002 is hereby amended by striking out the last sentence and inserting in place thereof the following, 'The Department may make a collection based on this assessment directly from the electric companies and deposit the monies directly into the Radiation Control Trust Account.'".

The amendment was adopted.

Mr. Knuuttila of Gardner then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 113. The Department of Environmental Protection shall assess a fee and/or surcharge of not more than \$1.00 per metric ton of waste deposited in a municipal landfill where the waste deposited is generated by a community or communities other than the community or communities which host said municipal landfill. Funds collected or realized from said fee or surcharge will be placed into an account created and maintained by the Department of Environmental Protection. Expenditures from this fund or account shall then be designated by the Department, subject to appropriation, exclusively to efforts of municipal cemetery and state veterans' cemetery clean-up, maintenance and repair."

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 113. Section 172A of Chapter 6 of the General Laws as most recently amended by section 1 of chapter 46 of the acts of 2003, is hereby amended by striking section 172A and inserting the following new section:

Section 172A. The criminal history systems board shall assess a fee of \$30 for each request for criminal offender record information. A fee shall not be assessed for a request from a victim of a crime, a witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, from a governmental agency, or from such other persons as the board shall exempt. Certified agencies that provide services to the elderly, children, victims of crime, medically infirm persons, or the physically or mentally challenged shall be assessed a fee of \$5 in addition to the agency's fee rate on June 30, 2003, unless exempted by the board. The criminal history systems board shall assess a fee of \$25 for each request for criminal offender record information from an individual seeking to obtain criminal offender record information pertaining to himself; provided, however, that if a person shall be found indigent, as defined in section 27A of chapter 261, the board shall not impose a fee. All such fees shall be deposited into the General Fund, excluding a nominal processing fee for online e-payments."

The amendment was adopted.

Mr. Binienda of Worcester then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 114. Section 40E of chapter 82 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out in line 2 the words 'five hundred' and inserting in place thereof the following words:— one thousand;

And further striking out in line 3 the words 'one thousand' and inserting in place thereof the following words:— five thousand;

And further striking out in line 3 the words 'five thousand' and inserting in place thereof the following words:— ten thousand."

The amendment was adopted.

Mr. Kane of Holyoke then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 115. 7L-110. Notwithstanding any general or special law to the contrary, for the fiscal year 2005, there shall be no increase in any of the charges at the Soldiers' Home in Massachusetts or the Soldiers' Home in Holyoke."

The amendment was rejected.

Ms. Atkins of Concord then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 115. Notwithstanding any general or special law to the contrary, no charges or fees shall be imposed or collected for parking at the Great Brook Farm State Park in Carlisle."

The amendment was rejected.

Mr. Carron of Southbridge then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 115. Section 6B of chapter 200A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

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(a). Subject to the provisions of Section 1A and subsection (b) of this section, any sum payable on a certified check, draft, cashier's check, treasurer's check, registered check, or other similar written instrument, other than a third-party bank check, on which a person is directly liable shall be presumed abandoned under this section if has been outstanding for more than three years from the date it was payable, or from the date of its issuance, if payable on demand, or in the case of traveler checks has been outstanding for more than fifteen years, or in the case of money orders has been outstanding for more than seven years, from the date of its issuance, unless the owner has within three years, or within fifteen years in the case of travelers checks, or within seven years in the case of money orders, corresponded in writing with the person concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the person. A new person is directly liable if it is the actual holder of the fund representing the face amount of such instrument at the time of presumed abandonment hereunder.”.

The amendment was rejected.
Mr. Larkin of Pittsfield and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 115. Section 41 of chapter 3 of the General Laws is hereby amended by striking out the words ‘may for good cause’ and inserting in place thereof the following words: ‘shall waive’.”.

The amendment was rejected.
Mr. Kujawski of Webster then moved that the bill be amended by inserting after section 52 the following section:

“SECTION 52A. Chapter 211 of the General Laws is hereby amended by adding the following section:—

Section 29. The Board of Bar Overseers shall assess a \$50.00 annual registration fee for attorneys who retire from the practice of law, sitting judges, clerk-magistrates, as defined in Canon 1 of Supreme Judicial Court Rule 3:12, Federal clerks of court, chief deputy clerks and deputy clerks, employees of the General Court, District Attorneys and their assistants, the Attorney General and his assistants, attorneys employed by the Committee for Public Counsel Services, and attorneys employed by the Commonwealth of Massachusetts who do not otherwise engage in the practice of law.”.

The amendment was rejected.
Mr. Kujawski then moved that the bill be amended by inserting after section 57 the following section:

“SECTION 57A. Section 28E of chapter 278 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:—

No costs or attorney's fees shall be assessed against the office of the attorney general or a district attorney's office in connection with an interlocutory appeal or application therefor of an order allowing a motion to suppress or dismiss taken by the commonwealth pursuant to section 28E of chapter 278 of the General Laws or the rules of criminal procedure unless the defendant prevails and a single justice determines that the appeal was frivolous. Defendants represented by either the public or private counsel division of the committee for

public counsel services shall not be entitled to costs or attorney's fees pursuant to this section.”.

The amendment was rejected.
Mr. Bosley of North Adams then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 115. Section 18 of chapter 138 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end of Section 18 the following new paragraph:—

It shall be unlawful for any licensee under this section to purchase alcoholic beverages from any source other than the primary American source of supply unless authorized by the primary American source of supply. “Primary American source of supply” shall mean the distiller, bottler, brewer, vintner, brand owner, or designated agent of any such distiller, bottler, brewer, vintner, or brand owner.”.

The amendment was adopted.
Mr. deMacedo of Plymouth and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 116. Chapter 25A of the General Laws is hereby amended by inserting after section 11G the following new section:—

Section 11H. (a) The division of energy resources is hereby authorized to make an assessment against each electric and gas utility company doing business in the commonwealth. This section does not apply to the municipally owned electric and gas companies.

(b) Such assessments shall be made to finance activities undertaken by the division in accordance with section 11G related to oversight and coordination of ratepayer funded programs for energy efficiency, energy conservation, and demand reduction programs.

(c) Such assessment shall be made at a rate as shall be determined and certified annually by the commissioner as sufficient to reimburse the commonwealth for funds appropriated by the general court for activities of the division related to the oversight and coordination of programs for energy efficiency, energy conservation, and demand reduction. From July 1, 2004 through December 31, 2004, the assessment shall not exceed an amount equal to 0.375 per cent of the total annual mandatory charge collected by each utility company pursuant to section 19 of chapter 25 in the case of electric companies, or 0.375 per cent of the efficiency budgets as approved by the department of telecommunications and energy or otherwise required by law in the case of gas companies, as applicable. Beginning January 1, 2005, the assessment shall not exceed an amount equal to 0.75 per cent of the total annual mandatory charge collected by each utility company pursuant to section 19 of chapter 25 in the case of electric companies, or 0.75 per cent of the efficiency budgets as approved by the department of telecommunications and energy or otherwise required by law in the case of gas companies, as applicable. Assessments made under this section shall be charged by the utility companies against the revenues so collected pursuant to section 19 of chapter 25 or as such revenues are approved by the department of telecommunications and energy or otherwise required by law, as applicable. Each company shall pay the amount assessed

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against it within 30 days after the date of the notice of assessment from the division.

SECTION 117. Chapter 25A of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following new section:—

Section 13. (a) Notwithstanding the provisions of any general or special law to the contrary, the division may apply for, receive, retain, redeem, sell or transfer any energy conservation credits, renewable energy certificates or credits, emissions credits, or energy reduction allowances earned or received by the commonwealth including but not limited to allowances awarded through the public benefit set-aside provisions of the NOx Allowance Trading Program implemented by the department of environmental protection.

(b) There shall be established upon the books of the commonwealth a separate fund to be known as the Division of Energy Resources Credit Trust Fund. There shall be credited to said fund all amounts received through the redemption or sale of such certificates, credits and allowances specified in this section and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and shall be available for expenditure, subject to appropriation, by the division of energy resources for activities of the division related to the development, oversight and implementation of programs for energy reliability, renewable energy, public procurement of energy and energy efficiency, and climate change. Any unexpended balance in the fund at the close of a fiscal year shall remain in the fund and shall be available for expenditure in the following fiscal year; provided however, that the fund shall not be in deficit at the end of any state fiscal year.”.

The amendment was adopted.
Mr. Koutoujian of Waltham then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 118. Section 28 of chapter 10 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out section 28 and inserting in place thereof the following section:—

Section 28. The right of any person to a prize drawn is not assignable except under the following limited circumstances:

(A) Payment of any prize drawn may be paid to the estate of a deceased prize winner as provided in section (3) or to the IV-D agency under in chapter one hundred and nineteen A.

(B) Payment of any prize drawn may be made to any person under an appropriate judicial order.

(C) The Commission may, by regulations adopted under section 24, permit assignment of prizes for purposes of paying estate and inheritance taxes, or to a trust the beneficiaries of which are the prize winner, his mother, father, children, grandchildren, brothers, sisters or spouse.

(D) Payment of any prize drawn may be made to any person under a voluntary assignment of the right to receive future prize payments, in whole or in part, if the assignment is made to a person or entity named as the assignee in an appropriate judicial order of a

Court of competent jurisdiction, the superior Court, sitting within and for the county in which the Commission is situated or in which the assignor resides. Under this paragraph, a Court may issue an order approving a voluntary assignment and directing the Commission to make prize payments in whole or in part to the designated assignee, if and only if the Court finds that all of the following conditions have been met:

(i) The assignment is in writing, executed by the assignor and, by its terms, subject to the laws of Massachusetts;

(ii) The Court finds that the assignor:

(a) is of sound mind, is not acting under duress,

(b) has been advised regarding the assignment by his or her own independent legal counsel and certified financial planner. For purposes of this subsection, independent legal counsel means counsel who is unrelated to and is not being compensated by the assignee or any of the assignee’s affiliates;

(c) irrevocably agrees that he or she is subject to state income tax with respect to any gain or income which the assignor will recognize in connection with the transfer or assignment; and

(d) Understands and agrees that with regard to the assigned payments, the commonwealth, the Commission, and the director will have no further liability or responsibility to make said payments to the assignor.

(e) In making the findings under subsections (a), (b), (c), and (d), absent a showing of special circumstances or hardship, the Court shall require the personal appearance and in-Court affirmation of the assignor. For purposes of this section, “special circumstances or hardship” shall mean the assignor resides outside of the commonwealth or a health or other condition makes a Court appearance unduly costly, dangerous, or burdensome, in which case the Court may, in its discretion, take evidence by way of telephonic testimony, video deposition, or written affidavit.

(iii) At the time he signed the assignment contract, the assignor was provided with a one-page written disclosure statement setting forth, in bold type of not less than 14 points, the payments being assigned, by amounts and payment dates; the purchase price being paid; the rate of discount to present value, assuming daily compounding and funding on the contract date; and the amount, if any, of any origination or closing fees that will be charged to him or her; provided further that the disclosure statement shall be in a form approved by the Commission.

(iv) The assignor was advised in writing, at the time he or she signed the assignment contract, that he or she had the right to cancel the contract, without any further obligation, within ten (10) calendar days following the date the contract was signed.

(v) If the Court determines at the time of the hearing set forth in paragraph (ii) that the assignment is not in compliance with paragraph (ii) then the Court shall have discretion to void the assignment without recourse or obligation to the proposed assignor or assignee.

(E). Each Court order issued under subsection (D) shall provide that any delinquent child support obligations of the assigning prize winner and any debts owed to a state agency by the assigning prize

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winner, as of the date of the Court order, must be paid in full, at closing, out of the purchase price to be paid the assignor or shall be offset by the Commission first against remaining payments or portions thereof due the prize winner and then against payments due the assignee.

(F). In the case of a voluntary assignment for consideration made under subsection D, the assignee shall withhold 5.3 per cent of the purchase price and pay that withheld amount to the commonwealth as state income tax withholding to credit the account of the assignor.

(G). The commonwealth, the Commission, the director, and the agents and employees of the Commission shall be discharged of all further liability upon payment of a prize to an assignee identified in a Court order entered under subsection D.

(H). Soliciting to buy or offering to sell rights to lottery prize winnings, either by assignment or through pledge as collateral for a loan, shall not be deemed selling or offering for sale lottery tickets or shares under this act.

(I). The director may establish a reasonable fee, payable by the assignee, to defray any administrative expenses associated with assignments made under this section, including the cost to the commonwealth of any processing fee that may be imposed by a private annuity provider. The fee amount shall reflect the direct and indirect costs associated with processing the assignments and shall be no greater than \$1,000 per transaction.

(J). Written notice of a proposed assignment under subsection D and any Court hearing concerning the proposed assignment must be provided to the Commission's counsel at least 10 days prior to any Court hearing. The Commission is not required to appear in or be named as a party to any such action seeking judicial confirmation of an assignment under this Section, but may intervene as of right in any such proceeding. A certified copy of a Court order approving a voluntary assignment must be provided to the Commission not later than 14 days before the date on which the payment is to be made.

(K). Nothing in this chapter shall exempt an assignee or person acting as broker, agent, or intermediary for an assignee, from the licensure requirement and other rules and restrictions imposed under section 96 of chapter 140.

(L). A Court order obtained under subsection D, together with all such prior orders, shall not require the Commission to divide any single prize payment among more than 3 different persons.

(M). No business entity may seek or obtain an order approving a voluntary assignment of lottery prize payments under this section unless and until said business entity has first filed a written disclosure and registration statement with the state lottery and paid the registration fee specified below. The disclosure and registration statement shall list and disclose, under penalty of perjury under the laws of the commonwealth, the following:

- (i) the registrant's full name, mailing address, and telephone number;
- (ii) the name and address of the registrant's agent for service of process in Massachusetts;

(iii) any and all claims by a lottery winner, a state lottery, a consumer protection agency or a state, federal, or local prosecutor or enforcement agency against the Registrant or its affiliates in any state or federal Court within the past five years, along with the status and disposition of all such claims;

(iv) the registrant's privacy, "do-not-call" and non-harassment policies.

The registration and disclosure shall be accompanied by a non-refundable fee in the amount of \$2,500 payable to the Commission by the registrant. All registrations and disclosures shall be maintained on file with state lottery and shall be made available to any member of the public upon request.

(N). Notwithstanding this section, no prizewinner shall have the right to assign prize payments upon:

(i) The issuance by the United States Internal Revenue Service of a technical rule letter, revenue ruling, or other public ruling of the Internal Revenue Service in which the IRS determines that, based upon the right of assignment provided in subsection D, a Massachusetts lottery prizewinner who does not assign any prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(ii) The issuance by a Court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subsection D, a lottery prizewinner who does not assign any prize payments under this subsection would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(iii) Upon receipt of a letter or ruling from the IRS or a published decision of a Court of competent jurisdiction, as specified in paragraphs i or ii, the director shall immediately file a copy of that letter, ruling, or published decision with the state secretary. Immediately upon the filing by the director of a letter, ruling, or published decision with the state secretary, a prizewinner shall be ineligible to assign a prize under subsection (1) (D).

SECTION 119. Notwithstanding any general or special law to the contrary, any revenue collected pursuant to the assignment of lottery prizes shall be deposited into the stabilization fund."

The amendment was adopted.

Messrs. O'Flaherty of Chelsea and Knuuttila of Gardner then moved that the bill be amended by adding at the end thereof the following two sections:

"SECTION 120. Chapter 262, as appearing in the 2002 Official Edition, and as most recently amended by section 497 of chapter 26 of the Acts of 2003, is hereby amended by striking out section 2A in its entirety.

SECTION 121. Chapter 262, as appearing in the 2002 Official Edition, and as most recently amended by section 502 of chapter 26 of the Acts of 2003, is hereby amended by striking out section 4D in its entirety."

Amendment
adopted,
yea and nay
No. 590.

Amendment
adopted,
yea and nay
No. 591.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 590 in Supplement.]

Therefore the amendment was adopted.
Mr. Linsky of Natick and other members of the House then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 122. Section 7 of Chapter 26 of the Acts of 2003 is hereby repealed.

SECTION 123. Section 8 of Chapter 26 of the Acts of 2003 is hereby repealed.”

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 591 in Supplement.]

Therefore the amendment was adopted.
Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 124. Subdivision (2) of subsection (a) of section 2 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting, after subparagraph (P), the following subparagraph:—

(Q) Any amount received as unemployment benefits paid from the unemployment compensation fund to any individual eligible for benefits under chapter 151A.”

The amendment was rejected.
Mr. Correia of Fall River being in the Chair,— Mr. Kocot of Northampton then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 124. Subsection (c) of section 1 of chapter 63A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following clause:—

3) organizations which are located within the boundaries of a Massachusetts army or air national guard base that serve as social clubs for members of the Massachusetts army or air national guard.

SECTION 125. Section 6 of chapter 64H of the General Laws, as appearing in the 1998 Official Edition, is hereby amended in line 366 by inserting after the word “ninety-three” the following:— meals served on the premises of organizations which are located within the boundaries of a Massachusetts army or air national guard base that serve as social clubs for members of the Massachusetts army or air national guard.”

The amendment was adopted.
Mr. Kocot then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 126. The City of Northampton may, upon acceptance of the provisions of this act, impose a local sales tax upon the sale of meals as defined in Chapter 64H of the General Laws and further

defined in 830 CMR 64H.6.5, of not more than 3 percent of the total price of the meal. The local sales tax imposed under the provision of this act shall be collected and paid by the vendor to the commissioner of revenue at the same time and in the same manner as the sales tax due the Commonwealth. Liability for failure to pay the local sales tax shall be the same as for failure to pay the sales tax due the Commonwealth in accordance with Chapter 64H of the General Laws. All sums received by the commissioner under the provisions of this act as excise, penalties or forfeitures, interest, cost of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer, upon certification of the commissioner, to the City of Northampton in proportion to the amount of such sums received from the sale of meals in the City of Northampton. Acceptance of the provisions of this act shall require a majority vote of the city council with the approval of the mayor. The provisions of this act shall take effect on the first day of the first calendar month following such acceptance; provided further, that if such day is less than 15 days after such acceptance, it shall take effect on the first day of the second calendar month following such acceptance. The City may not revoke or re-impose the local sales tax provided for in this act more often than once in any 12 month period.”

The amendment was rejected.
Mr. Hynes of Marshfield then moved that the bill be amended by striking out section 5 and inserting in place thereof the following section:

“SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, every lottery ticket sold in the commonwealth shall be assessed a sales tax. The sales tax shall not increase the price of any lottery ticket and any decrease in lottery revenue realized from such tax shall be offset by a reduction in payouts. On a quarterly basis, sales taxes received shall be transferred to the department of revenue.”

After remarks the amendment was rejected.
Mr. Spellane of Worcester then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 126. Section 4 of Chapter 62 as amended by Section 13 of Chapter 186 of the Acts of 2002 is hereby amended by striking paragraph (b) and inserting in place thereof the following paragraph:—

(b) Part B taxable income shall be taxed at the rate of 5.95 percent for tax years beginning on or after January 1, 2004.”

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 27 members voted in the affirmative and 129 in the negative.

[See Yea and Nay No. 592 in Supplement.]

Therefore the amendment was rejected.
After remarks Mr. Scaccia of Boston moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 126. Chapter 64H of the General Laws, as appearing in the 2001 Official Edition, is hereby amended by inserting after section 2 the following section:—

Amendment
rejected,
yea and nay
No. 592.

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Section 2A. Section 1. Any city or town which accepts the provisions of this section shall be authorized to impose a local excise tax, as provided in this chapter, upon the sale of meals, as defined in this chapter, of up to 3% of the total price thereof. The local excise tax imposed under the provisions of this section shall be paid by the vendor to the commissioner at the same time and in the same manner as the excise tax due the commonwealth. Such sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted the provisions of this section in proportion to three-quarters of the amount of such sums received from the sale of meals in each such city or town; provided further, that one-quarter of such sums shall be forwarded to the commission for the purpose of distribution to each municipality. The commissioner, in consultation with the Local Government Advisory Council, shall submit its recommendations for equitable distribution to each city and town to the chairs of house and senate ways and means committees by October 1, 2004 and shall forward such sums on a quarterly basis after such determination is made.

This section shall only take effect in a city or town accepting the provisions of this section by a majority vote of the city council with the approval of the mayor, in the case of a city with a Plan A, Plan B, or Plan F charter; by a majority vote of the city council, in the case of a city with a Plan C, Plan D, or Plan E charter; by a majority vote of the annual town meeting or a special meeting called for purpose, in the case of a municipality with a town meeting form of government; or by a majority vote of the town council, in the case of a municipality with a town council form of government. The provisions of this section shall take effect on the first day of the first calendar month following such acceptance; provided, however, that such day is at least fifteen days after such acceptance; and, provided further, that if such day is less than fifteen days after such acceptance it shall take effect on the first day of the second calendar month following such acceptance. The city or town, in accepting the provisions of this section, may not revoke or reimpose the local excise tax provided for in this section more often than once in any twelve-month period.

Amendment
rejected,
yea and nay
No. 593.

SECTION 127. This act shall take effect upon passage.”. After remarks on the question on adoption of the amendment (the Speaker having returned to the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Scaccia; and on the roll call 66 members voted in the affirmative and 90 in the negative.

[See Yea and Nay No. 593 in Supplement.] Therefore the amendment was rejected. Subsequently a statement of Mr. Goguen of Fitchburg was spread upon the records of the House, as follows:

Statement of
Representative
Goguen of
Fitchburg.

MR. SPEAKER: During the taking of the above yeas and nays, I was inexplicably recorded in the negative. It was my intent to be recorded in the affirmative.

Mr. Peterson of Grafton then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 126. Subsection (l) of section 1 of chapter 64A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 70, the number “21” and inserting in place thereof the following number:— 11.

SECTION 127. Section 126 shall be effective only for the months of July through October, inclusive, of taxable year 2004.”.

After remarks the amendment was rejected. Mr. Linsky of Natick then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 126. Section 3 of Chapter 62 of the General Laws is hereby amended to add the following new subsection:

B.(a) (14). In addition to any other deduction from Part B income so-called, a taxpayer may deduct any fee paid to a municipality or public school district for the purpose of transportation for a student to or from a public school, participation by a student in an athletic, academic, enrichment or student activity program at a public school, or fee paid for the purpose of trash pickup or disposal, either paid directly to the municipality or for participation in a “pay as you throw” trash pickup program, so-called. The Commissioner of Revenue is authorized to promulgate regulations under this sub-section.”.

Pending the question on adoption of the amendment, Mr. Linsky moved that the amendment offered by him be amended by striking out the text contained therein and inserting in place thereof the following:

“SECTION 126. Section 3 of Chapter 62 of the General Laws is hereby amended to add the following new subsection:

B.(a) (14). In addition to any other deduction from Part B income so-called, a taxpayer may deduct up to a maximum total of one thousand dollars per year any fees paid to a municipality or public school district for the purpose of transportation for a student to or from a public school, participation by a student in an athletic, academic, enrichment or student activity program at a public school, or fees paid for the purpose of trash pickup or disposal, either paid directly to the municipality or for participation in a “pay as you throw” trash pickup program, so-called. The Commissioner of Revenue is authorized to promulgate regulations pursuant to this sub-section. This sub-section shall take effect January 1, 2005.”.

After debate on the question on adoption of the further amendment (offered by Mr. Linsky), the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 53 members voted in the affirmative and 103 in the negative.

Further
amendment
rejected,
yea and nay
No. 594.

[See Yea and Nay No. 594 in Supplement.] Therefore the further amendment was rejected. The pending amendment offered by Mr. Linsky of Natick then also was rejected.

Mr. Loscocco of Holliston then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 126. Section 6 of chapter 62 of the General Laws, as amended by section 120 of chapter 159 of the acts of 2000, is hereby further amended by adding the following subsection:—

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(k) A taxpayer who conveys land or development rights to land to the commonwealth or a political subdivision thereof, without consideration, so long as such conveyance is accepted by the commonwealth or such political subdivision, shall be allowed a tax credit in the amount of the full fair market value or such land or rights as of the date of such conveyance, as determined by the commonwealth or such political subdivision. Said credit shall be payable in 20 annual, equal installments. Said credit shall be transferable in whole or part to any other taxpayer or taxpayers.”.

Pending the question on adoption of the amendment, Mr. Casey of Winchester moved that said amendment be amended by adding at the end thereof the following: “Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the department of revenue has furnished a study of their impact on the state’s economy and the revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment, and ancillary economic activity, to the Joint Committee on Taxation, and, without the further approval of the House and Senate committees on Ways and Means.”.

The further amendment was adopted.
The amendment offered by Mr. Loscocco, as amended, then also was adopted.

Messrs. Marzilli of Arlington, Casey of Winchester and Rogers of Norwood then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 127. Chapter 186 of the acts of 2002 is hereby amended by striking out section 32 and inserting in place thereof the following section:—

Section 32. Sections 2, 6, 7, 8 and 14 shall be effective for tax years beginning on or after January 1, 2002.

SECTION 128. Notwithstanding section 111, the commissioner of revenue shall not adjust the tax liability for any taxpayer who, prior to the effective date of this act paid said liability in full for capital gains realized between January 1, 2002 and April 30, 2002, inclusive.”.

The amendment was adopted.
Ms. Blumer of Framingham then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 129. Chapter 271, section 7A as most recently amended by chapter 222 of the Acts of 1985 is further amended by adding the following sentence to the end of paragraph eight:— Public elementary schools shall be required to file said form within ten days but shall not be required to pay therewith a tax on the gross proceeds derived from said raffle or bazaar.”.

Pending the question on adoption of the amendment, the same member moved that the amendment offered by her be amended by striking out the text contained therein and inserting in place thereof the following:

“SECTION 129. Section 7A of chapter 271 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 111 to 113, inclusive, the words ‘and shall pay therewith a tax of five per cent of the gross proceeds derived from such raffle or bazaar’.”.

The further amendment was adopted, thus precluding a vote on the pending amendment.

Ms. Gifford of Wareham then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 130. Subdivision (a) of subsection (B) of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after subparagraph (13) the following new subparagraph:

(14) An amount equal to 100 percent of any compensation included in Part B adjusted gross income paid to a resident of the Commonwealth serving on active duty in the Armed Forces of the United States who is stationed outside the Commonwealth for at least nine months of the taxable year in which said compensation is otherwise subject to taxation under this chapter. The provisions of this subparagraph shall be available only for the taxable years beginning on or after January 1, 2004.”.

Pending the question on adoption of the amendment, Mr. Casey of Winchester and Ms. Gifford moved that the amendment offered by her be amended by striking out the words “outside the Commonwealth” and inserting in place thereof the words “in a combat zone”.

After remarks the further amendment was adopted.

On the question on adoption of the amendment, as amended, the sense of the House was taken by yeas and nays, at the request of Ms. Gifford; and on the roll call 156 members voted in the affirmative and 0 in the negative.

Amendment
adopted,
yea and nay
No. 595.

[See Yea and Nay No. 595 in Supplement.]

Therefore the amendment, as amended, was adopted.
Mr. Frost of Auburn then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 131. (a) The Department of Revenue and the Executive Office of Administration & Finance shall study the impact to the General Fund and the estimated figures each community would receive in addition to the funding formulas for local aid, if each community were to receive one percent of state tax collected from the businesses located within that community. The taxes which communities could retain of the existing state taxes would be one percent of the meals tax, corporate excise tax and the sales tax.

(b) The Department of Revenue and the Executive Office of Administration & Finance shall use FY 2004 tax revenue numbers to compare what communities received from the state and what they could have received in addition had this policy been in place for FY 2004 and what impact this would have had on the General Fund. The study should include an opinion as to what other state programs and services may have been affected. The study shall be completed and presented to the Joint Committee on Taxation and the Joint Committee on Education and the Joint Committee on Local Affairs no later than December 1, 2004.”.

The amendment was adopted.

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Mr. Demakis of Boston then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 132. Chapter 63 of the Massachusetts General Laws is hereby amended by inserting after section 30, as appearing in the 2000 Official Edition, the following section:—

Section 30B. (a) For purposes of this chapter, the income of 2 or more corporations, the voting stock of which is more than 50 per cent owned directly or indirectly by a common owner, and which are engaged in an unitary business, except as provided in subsection (j) of section 38, shall be allocated or apportioned as if the group of corporations were a single corporation, in which event:

(1) The taxable income of any corporation subject to taxation in this commonwealth shall be determined by use of a combined report which includes the income of all corporations which are members of the unitary business, allocated and apportioned using apportionment factors for all corporations included in the combined report under the methods set out in this chapter.

(2) Subject to the limitations of clause (3), the combined report shall include, but shall not be limited to, the income of all corporations which are members of the unitary business and are part of a combined group, as defined by, or are included in a combined report required by the laws of another state.

(3) Notwithstanding the preceding clause, the combined report shall be limited to the following affiliated entities:

(i) a domestic international sales corporation, as described in Sections 991 to 994, inclusive, of the Internal Revenue Code and a foreign sales corporation as described in Sections 921 to 927, inclusive, of the Internal Revenue Code;

(ii) any corporation, other than a bank, life insurance company, or utility corporation within the meaning of this chapter, regardless of the place where it is incorporated if the average of its property, payroll, and sales factors within the United States is 20 per cent or more;

(iii) a corporation incorporated in the United States, excluding a corporation making an election pursuant to Sections 931 to 936, inclusive, of the Internal Revenue Code or that is a bank, life insurance company, or utility corporation within the meaning of this chapter;

(iv) any corporation that is not described in clauses (i) to (iii), inclusive, or clause (v), but only to the extent of its income derived from or attributable to sources within the United States and its factors assignable to a location within the United States. Income of that corporation derived from or attributable to sources within the United States as determined by federal income tax laws shall be limited to and determined from the books of account maintained by the corporation with respect to its activities conducted within the United States;

(v) an export trade corporation, as described in Sections 970 to 972, inclusive, of the Internal Revenue Code; and

(vi) any affiliated corporation which is a “controlled foreign corporation,” as defined in Section 957 of the Internal Revenue Code, if all or part of the income of that affiliate is defined in Section 952 of

Subpart F of the Internal Revenue Code, “Subpart F income”. The income and apportionment factors of any affiliate to be included under this paragraph shall be determined by multiplying the income and apportionment factors of that affiliate without application of this paragraph by a fraction, not to exceed 1, the numerator of which is the “Subpart F income” of that corporation for that taxable year and the denominator of which is the “earnings and profits” of that corporation for that taxable year, as defined in Section 964 of the Internal Revenue Code.

(b) The commissioner shall adopt regulations necessary to ensure that the tax liability or net income of any corporation whose income is derived from or attributable to sources within this commonwealth and which is required to submit a report under subsection (a), and of each entity included in said report, both during and after the period of inclusion in the combined report, is properly reported, determined, computed, assessed, collected, or adjusted.”.

After debate on the question on adoption of the amendment, Mr. Casey of Winchester moved that the amendment offered by Mr. Demakis be amended by striking out the text contained therein and inserting in place thereof the following:

“SECTION 132. There is hereby established a special commission to examine the effectiveness of requiring combined reporting for all corporate excise tax filers in the Commonwealth. Combined reporting would require corporations, when filing their tax returns, to list all of the profits they have earned — including the profits earned by any subsidiary with which they are engaged in a unitary business — and to calculate their profits subject to apportionment based on that total. Said commission shall include the following members: the House and Senate chairs of the Joint Committee on Taxation, one of whom shall serve as the non-voting chair of said commission, the House and Senate chairs of the Joint Committee on Commerce and Labor, the vice-chairs of the Joint Committee on Taxation, the ranking minority House and Senate members of the Joint Committee on Taxation, the Commissioner of Revenue, and one member appointed by each of the following organizations: the Federal Reserve Bank of Boston, the Multistate Tax Commission, the Massachusetts Taxpayers’ Foundation, the Massachusetts Budget and Policy Center, the Associated Industries of Massachusetts, and the Massachusetts AFL-CIO, and the Massachusetts Municipal Association. The scope of the commission’s inquiry shall include, but shall not be limited to, an examination of the following: the decline in corporate excise tax revenue relative to personal income in Massachusetts, whether corporate excise tax revenue is lost due to tax avoidance strategies, whether combined reporting would be effective in combating and minimizing such strategies, the long-term revenue implications for the Commonwealth of adopting combined reporting, the contribution that combined reporting would make in improving the Commonwealth’s ability to enforce the corporate excise tax, the economic impact of adopting combined reporting, and the experiences of other states that currently use combined reporting. The Commission shall submit its report to the House and Senate Committees on Ways and Means and the Joint Committee on Taxation not later than December 15, 2004. Said

Further
amendment
adopted,
yea and nay
No. 596.

report may include any legislation necessary to implement its recommendations.”

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Demakis; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 596 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Scaccia of Boston being in the Chair,— the bill (House, No. 4600, amended) then was ordered to a third reading.

Under suspension of the rules, on motion of Mr. Rogers of Norwood, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time forthwith.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Jones of North Reading and other members of the House moved that it be amended in section 2, in item 0610-0140, by inserting after the figures “2004” the following: “; and provided further, that no fees authorized in this item may be collected from any financial institutions doing business with the commonwealth, including, but not limited to financial institutions holding, administering or investing any state assets”.

The amendment was adopted.

Mr. Rogers of Norwood and other members of the House moved that the bill be amended in section 2, in item 0540-0900, by striking out the figures “744,292” and inserting in place thereof the figures “793,576”;

In item 0540-1000, by striking out the figures “2,188,103” and inserting in place thereof the figures “2,290,778”;

In item 0540-1700, by striking out the figures “450,614” and inserting in place thereof the figures “470,614”;

In item 0810-0000, in line 5, by inserting after the word “laws” the following: “provided further, that not more than \$250,000 shall be expended for the funds appropriated in this item for a safe neighborhood initiative pilot program in the Bowdoin/Geneva area of Dorchester; provided further, that not less than \$100,000 shall be expended for the Ella J. Baker house and the Tieng Xanh-Voice Program;”, and in said item, by striking out the figures “20,851,774” and inserting in place thereof the figures “20,951,774”;

In item 0810-0045, by striking out the figures “2,853,257” and inserting in place thereof the figures “3,043,422”;

In item 0640-0000, by striking out the figures “67,022,388” and inserting in place thereof the figures “67,072,388”; and

In item 0610-0050, in line 7, by inserting after the word “beverages” the following: “provided further, that not less than \$60,000 be provided for an additional investigator for Western Massachusetts region;”, and in said item, by striking out the figures “1,766,478” and inserting in place thereof the figures “1,826,478”.

The amendments were adopted.

At sixteen minutes before six o’clock P.M., the Chair (Mr. Scaccia of Boston) declared a recess until seven o’clock; and at seven minutes after seven o’clock the House was called to order with the Speaker in the Chair. Recess.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out section 52; and the amendment was rejected.

Messrs. Binienda of Worcester and Bosley of North Adams then moved that the bill be amended in section 2, in item 7006-0070, by striking out the figures “6,910,431” and inserting in place thereof the figures “7,897,089”. The amendment was adopted.

Mr. Petrucci of Boston then moved that the bill be amended by striking section 85; and the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 87 by striking out the last sentence contained therein. The amendment was adopted.

Mr. Kocot of Northampton then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 133. There is hereby established a special commission on protecting the archaeological, geological, and fossil resources of the Connecticut river valley. Said special commission shall review existing special and general laws, may hold hearings at various locations across the Commonwealth to obtain written and oral testimony and may consult with state and federal agencies to determine if existing state laws and regulations adequately protect the archaeological, geological and fossil resources located within the Connecticut River Valley and the feasibility of establishing a Connecticut River Valley Natural History Museum. Said special commission shall be comprised of four members of the House of Representatives, appointed by the Speaker, from districts in western Massachusetts that include a portion of the Connecticut river valley that has significant fossil, archaeological or geological deposits; three members of the Senate, appointed by the President, of which at least two shall be from a district in western Massachusetts that includes the Connecticut river; four of whom shall be appointed by the Governor, of which one shall be a professor of archaeology at the University of Massachusetts at Amherst, one of whom shall be a recognized authority on western Massachusetts geological formations who is a professor at a Massachusetts college or university, one whom shall be an environmental police officer who has experience with investigating the unlawful removal of archaeological, geological or fossil resources, and one of whom shall be of native American descent of a tribe indigenous to western Massachusetts; one member shall be appointed by the secretary of the commonwealth, who shall be knowledgeable of the archaeological and historic resources of the Connecticut river valley. Said special commission may receive funding through state appropriation or grants, federal appropriation or grants, private gifts and donations, provided, that said special commission shall file its report with the joint committee

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on natural resources and agriculture and the clerks of the House and Senate no later than October 1, 2006.”.

The amendment was adopted.
Mr. Fallon of Malden then moved that the bill be amended in section 2, in item 1231-1000, in line 2, by inserting after the word “Laws” the following: “; provided further, that said funds to be used for homeowners who are 62 years or older; or who may be disabled”.

The amendment was rejected.
Mr. Ruane of Salem then moved that the bill be amended in section 2, in item 1100-1104, by striking out the figures “50,000” and inserting in place thereof the figures “436,381”; and the amendment was adopted.

Mr. Kujawski of Webster then moved that the bill be amended in section 2, in item 1232-0100, by inserting after the word “Laws” the words “prior appropriation continued”; and, in item 1232-0200, by inserting after the figures “2005” the words “prior appropriation continued”.

The amendments were adopted.
Mr. LeDuc of Marlborough then moved that the bill be amended in section 2, in item 7006-0020, in line 15, by inserting after the figures “218;” the following: “provided further, that not less than \$60,000 shall be allocated for administrative support personnel for the Automobile Insurers Appraisers Board;”.

The amendment was adopted.
Ms. Stanley of West Newbury then moved that the bill be amended by striking out section 101; and the amendment was rejected.

Mr. Koczera of New Bedford then moved that the bill be amended by adding at the end thereof the following section:
“SECTION 134. Pursuant to section 12 of chapter 32A of the General Laws, the group insurance commission shall negotiate with and purchase on such terms as it deems to be in the best interests of the commonwealth, the political subdivisions that have accepted the provisions of this section and retired teachers from such political subdivisions, who are receiving a pension, annuity or retirement allowance from the state teachers retirement system, a policy or policies to make available, beginning July 1, 2004, the services of a health care organization to all such eligible and retired teachers and dependents, including the surviving spouse and dependents of such retired teachers, who reside in the commonwealth.”.

The amendment was rejected.
Mrs. Paulsen of Belmont and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 134. To augment the current activities of the administration, regulatory agencies, and the insurance industry toward implementing an assigned-risk plan, and in order to provide much-needed financial relief for Massachusetts citizens as soon as possible, to create a business climate more competitive with other states, and to research how best to establish a healthy automobile insurance market, a special commission shall be formed. Said commission shall be composed of nine (9) truly consumer-oriented indi-

viduals with no affiliations with either the insurance industry or the trial bar, selected as follows:

Four (4) members of the General Court: one each to be appointed by the speaker of the House of Representatives, the president of the Senate, the minority leader of the House of Representatives, and the minority leader of the Senate;

A representative of the Governor;
A representative of the Attorney-General; and,
Three (3) consumers with comprehensive awareness of Massachusetts automobile insurance issues and with demonstrated commitment to the public good, the method of their selection to be determined by the General Court’s Joint Committee on Insurance.

(b) The first task of the commission shall be to develop automobile insurance reform legislation based on the “choice/no-fault” concept of offering consumers the option of a strong no-fault policy, whose benefits according to a series of studies by the Joint Economic Committee of the U.S. Congress include savings for all Massachusetts motorists averaging over \$300 annually, and ranging from over two hundred dollars (\$200) in the Commonwealth’s most rural areas to over \$600 for many inner-city residents.

(c) Upon completion of the above task, the commission shall then conduct in-depth research into the issue of competition for the Commonwealth’s automobile insurance market. Specific areas of concern shall include but not be limited to:

The affordability of insurance by less-affluent car owners in the high-rated urban areas;

The effect of innovative merit-rating plans such as those currently offered in the other more competitive states;

The extent to which a more competitive rating system will induce more companies to entering the state’s insurance market and thus create a healthier market;

The type of regulation of any competitive market that would be best suited to the needs of the Commonwealth;

Methods whereby the current territorial cross-subsidization can be maintained in a competitive market; and,

Upon the request of the Joint Committee on Insurance, other related issues that may arise in the course of the commission’s research.

The commission’s activities shall not affect the current industry changes towards the implementation of a so-called “assigned risk” method of handling the residual involuntary market.

(d) The commission shall avail itself of the counsel and advice of relevant regulatory bodies in other states, of national insurance information associations, and of major insurance companies, both those currently doing automobile insurance business in the Commonwealth and those currently not doing such business.

(e) The operations of the commission shall be funded by a one-time assessment of ten cents (\$0.10) per policy against all licensed insurers doing automobile insurance business in the Commonwealth, such assessment to produce approximately four hundred thousand dollars (\$400,000) and representing approximately one-hundredth of a percent (0.01%) of the annual cost of the average policy.

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(f) The commission shall submit the proposed legislation of sub-section (b) above, together with any minority proposal(s), to the General Court no later than November 15, 2004.

(g) The commission shall submit a report of the research of sub-section (c) above, together with any minority report(s), to the General Court no later than July 1, 2005.

(h) Upon the completion of both tasks, the commission shall be dissolved at the discretion of the Joint Committee on Insurance.”.

The amendment was adopted.
Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 135. Sections 52 through 55, inclusive, of chapter 7 of the General Laws are hereby repealed.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. deMacedo of Plymouth; and on the roll call 23 members voted in the affirmative and 131 in the negative.

[See Yea and Nay No. 597 in Supplement.]

Therefore the amendment was rejected.
Mr. Hillman of Sturbridge then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 135. Notwithstanding any general or special law to the contrary, the state comptroller shall, in consultation with the office of consumer affairs and business regulation and the division of local services within the department of revenue, conduct a study of the feasibility of expanding the intercept program to cross-check the list, maintained by the office of the state comptroller for purposes of revenue intercept, of persons owing outstanding receivables to municipalities, including, but not limited to unpaid property taxes, against the records of persons holding licenses issued by the commonwealth to do business in the commonwealth, including, but not limited to licenses issued by the division of professional licensure. Such expansion shall include the authority to suspend or revoke said licenses until such delinquent receivable is paid to the municipality or municipalities in question. The comptroller shall file a report with the house and senate committees on ways and means and the clerks of the house and senate no later than September 1, 2004, detailing his findings. Said report shall include recommendations for legislation to grant any necessary authority to any state officer or state agency in order to better facilitate said expansion of the state intercept program.”.

The amendment was adopted.
Mr. Hall of Westford then moved that the bill be amended in section 2, in item 1100-1100, by adding at the end thereof the following: “; provided that, notwithstanding any general or special law or regulation to the contrary, the Secretary of Administration and Finance shall not later than October 31, 2004 issue a request for purchase through the competitive bidding process for the provision of public records storage for all state agencies within the jurisdiction of the governor in order to achieve cost savings, including, but not limited to those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs

for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel. Said secretary shall report not later than March 31, 2005 with a plan to improve public records storage and office space efficiencies to the joint committee on State Administration and to the House and Senate Committees on Ways and Means”.

The amendment was adopted.
Mr. Timilty of Milton then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 136. There is hereby established a special commission to conduct an investigation and study relative to permitting private sector advertising on state websites. The special commission shall consist of 11 members, including 3 members of the senate, 5 members of the house of representatives, one of whom shall be the house chairman of the science and technology committee, and 3 persons to be appointed by the governor.

The commission shall study whether private sector advertising on state websites is a practicable initiative to generate revenue, and shall produce a report that shall include, but not be limited to, the following: (a) the issue of fair market compensation for use of state property, (b) ability to screen advertisements and (c) authority of state agencies to sell advertising space. Said report including legislative recommendations, if any, shall be submitted to the joint committees on science and technology, joint committees on state administration, and house and senate committees on ways and means by June 15, 2005.”.

The amendment was adopted.
Mr. Carron of Southbridge then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 137. Chapter 30 of the General Laws is hereby amended by inserting after Section 52 the following section:

Section 52A. Notwithstanding any special or general law to the contrary, the state purchasing agent, as defined by subsection (a) of section 4A of chapter 7 of the General Laws shall restrict any and all procurements for newly sought services or projects to a maximum two year duration. If an initial project extends beyond two years, the state purchasing agent may extend such contract only after a full review of goods and/or services provided indicate it is in the best interest of the Commonwealth to extend such contract. This contract may be extended for no more than one additional year. In the instance of a procurement for maintenance services to an initial project, the state purchasing agent shall limit such maintenance contracts to an initial term of one year. At the conclusion of one year, the state purchasing agent shall seek qualified bids from a minimum of two qualified vendors if the value of the contract exceeds \$50,000.00. In the instance where the value of the maintenance contract is less than \$50,000.00, the state purchasing agent may enter into up to two one year renewals with the current qualified vendor. If two qualified vendors do not submit bids for maintenance contract renewals, the state purchasing agent may issue the renewal to the current vendor. The state purchasing agent shall promulgate rules and regulations under Chapter 40A to effectuate this section.”.

The amendment was adopted.

Amendment rejected, yea and nay No. 597.

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Mr. Kujawski of Webster then moved that the bill be amended by inserting after section 12 the following section:

“SECTION 12A. Section 5 of Chapter 21J of the General Laws, as it presently appears, is hereby amended by adding the words “five hundred thousand”, following the word “million” in each of the two places in which said word “million” appears in subsection (a) thereof.”.

The amendment was adopted.
Mr. Naughton of Clinton then moved that the bill be amended in section 2, in item 7006-0040, by striking out the figures “3,025,423” and inserting in place thereof the figures “3,026,523”; and in said item by adding at the end thereof the following: “; provided that not less than \$1100.00 be expended to increase the number of Land Surveyors from one to three on the Board of Registration of Professional Engineers and Professional Land Surveyors”.

The amendments were adopted.
Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out section 88; and the amendment was adopted.

Mr. Casey of Winchester then moved that the bill be amended by inserting at the end thereof the following section:

“SECTION 138. Notwithstanding any general law or special law to the contrary, there shall be a special commission charged with reviewing, developing and implementing policies that create uniformity in all procurement activities conducted by the Operational Services Division. The commission shall determine the costs currently being incurred through the utilization of agencies’ internal personnel for office procurement purposes of those agencies in relation to the costs of consolidating all such activities under the authority of the Operational Services Division; establish guidelines for implementation of consolidated and uniform procurement procedures as indicated by said comparison of agency-specific and consolidated policies; create a detailed report of estimated yearly savings generated by the development of uniform procurement procedures when applied to said agencies; and submit a report of the commission findings and policy recommendations to the House of Representatives no later than July 1, 2004.

Said commission shall consist of six members, two of whom shall be members of the House Committee on Post-Audit and Oversight, two of whom shall be members of the House Committee on State Administration, and two of whom shall be members of the House of Representatives to be appointed by the Speaker of the House.”.

The amendment was adopted.
Mr. Rogers of Norwood and other members of the House then moved that the bill be amended in section 2, in item 0340-0410, by striking out the figures “300,000” and inserting in place thereof the figures “450,000”;

In item 0340-1000 by adding at the end thereof the following: “; and provided further, that not more than \$20,000 shall be expended for the Cape and Islands child advocacy center”;

In item 8000-0000, in line 6, by inserting after the word “program” the following: “; provided further, that not less than \$100,000 shall be expended for the citizens correctional review board; and

provided further, that that not less than \$25,000 shall be expended to provide additional Milton Police patrols for that portion of the Neponset River bicycle path in the town of Milton”;

By inserting after item 8000-0180 the following item:

“8000-0190 For a retained revenue account for the criminal history systems board; provided, that said board may expend not more than \$185,000 from fees collected for criminal offender record information requests; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system 185,000”;

In item 8000-8085, in line 2, by inserting after the word “costs” the following: “; provided further, that funds appropriated herein may be expended for the upgrade and maintenance of communications and other equipment for harbor masters serving as first responders; provided further, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General. The commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis. The commission shall approve and audit all state, local and regional programs and insure that all state, local and federal funding and grants are appropriately expended. The commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological consequences across a continuum of possible terrorism events. The commission shall ensure that state and local disaster planners address psychological consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks. Due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population. Due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response. The commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological

Amendment
rejected,
yea and nay
No. 597.

attack in the Commonwealth. The commission may hire staff, contract and enter into agreements for the operation of the commission. The commission may seek grants and other funding sources for the operation of the commission”;

In item 8315-1000 by striking out the figures “3,758,175” and inserting in place thereof the figures “4,252,175”;

In item 8400-0001, in line 13, by striking out the words “that the registry may run a license express office in the city of Lynn” and inserting in place thereof the words “that not less than \$110,000 shall be expended to operate a license express office in the city of Lynn”;

In item 8900-0001 by adding at the end thereof the following: “; provided further, that the department shall submit a report not later than March 15, 2005 to the house and senate committees on ways and means on the cost of providing healthcare for inmates; provided further, that the participants in this study shall include, but not be limited to, the department of correction, Boston Medical Center, Shattuck Hospital, Tufts Medical Plan, Harvard Pilgrim Health and Blue Cross and Blue Shield; provided further, that not less than \$75,000 shall be expended for the 5-A program in the Springfield; and provided further, that funds shall be expended on the Neil Houston House”;

In item 8910-0000, in lines 11, 12 and 13, by striking out the following: “that not less than \$1,450,000 shall be provided to the sheriff department of Barnstable county to fund the operational expenses associated with the opening of a new correctional facility in fiscal year 2004” and inserting in place thereof the following “that not less than \$4,900,000 shall be provided to the sheriff department of Barnstable county to fund the operational expenses associated with the opening of a new correctional facility in fiscal year 2005”;

In item 8910-0102 by striking out the figures “53,146,689” and inserting in place thereof the figures “53,246,689”;

In item 8910-0110 by striking out the figures “10,180,467” and inserting in place thereof the figures “10,430,689”;

By striking out item 8910-0188 and inserting in place thereof the following item:

“8910-0188 The Franklin sheriff’s department may expend for the operation of the department an amount not to exceed \$1,300,000 from revenues received from federal inmate reimbursements; provided, that \$300,000 from the reimbursements shall not be available for expenditure and shall be deposited in the general fund prior to the retention by the department of any said reimbursements; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system 1,300,000”;

In item 8910-0619 by striking out the figures “39,114,291” and inserting place thereof the figures “39,229,291”

By striking out item 8910-6619 and inserting in place thereof the following item:

“8910-6619 The Essex sheriff’s department may expend for the operation of the department an amount not to exceed \$2,000,000 from revenues received from federal inmate reimbursements; provided, that \$150,000 from the reimbursements shall not be available for expenditure and shall be deposited quarterly into the general fund before the retention by the department of any of these revenues as certified by the comptroller; provided further, that said quarterly payments shall total \$600,000 in fiscal year 2005 and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system 2,000,000”;

In item 8950-0001 by striking out the figures “12,353,427” and inserting in place thereof the figures “12,653,427”;

By adding at the end thereof the following section:

“SECTION 139. Notwithstanding the provisions of any general or special law to the contrary, licenses displaying social security numbers shall only be used upon the request of the applicant.”;

In item 1102-3206 by adding at the end thereof the following: “; and provided further, that the commissioner of the division of capital asset management and maintenance shall complete study number SDE 0301ST1 regarding the site location of the proposed regional holding facility in the county formerly known as Essex by July 31, 2004”;

By adding at the end thereof the following section:

“SECTION 140. There is hereby established a special commission to report on the Victim Information and Notification Everyday (VINE) program. Said commission shall consist of the Speaker of the House of Representatives or a designee, the President of the Massachusetts Senate or a designee, the Chair of the House Committee on Ways and Means or a designee, the Chair of the Senate Committee on Ways and Means or a designee, the House and Senate Chairs of the Joint Committee on Public Safety, who shall both serve as chairs of said commission, the House and Senate Chairs of the Judiciary Committee, the House and Senate Chairs of the Criminal Justice Committee, the Secretary of the Executive Office of Public Safety, the Commissioner of the Department of Corrections, the Commissioner of the Department of Public Health and 1 member appointed by the following organizations: the Massachusetts Sheriff’s Association, the Criminal History Systems Board Victim’s

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Services Unit, the Sex Offender Registry Board, the Office for Victim Assistance, the Attorney General’s office, Jane Doe, Inc. and Voices Against Violence. The scope of the commission’s inquiry shall include, but shall not be limited to: reviewing the components of the VINE program, reviewing the effectiveness of the VINE program in other states, reviewing the existing laws regarding notification of victims, victims’ rights and prisoner release, and determining the appropriateness of such a program in the Commonwealth. The commission shall submit its report to the House and Senate Committee on Ways and Means and the Joint Committee on Public Safety, no later than March 1, 2005.”;

By striking out section 105 and inserting in place thereof the following section:

“SECTION 105. Notwithstanding any general or special law to the contrary, there is hereby established a Citizens Correctional Review Board, referred to hereafter as the board. Said board shall consist of twenty-one members as follows: 3 members appointed by the speaker of the house of representatives, 3 members appointed by the president of the senate, the president of the Massachusetts Sheriffs Association or his designee, the inspector general or his designee, the attorney general or his designee, the auditor or his designee and 3 members appointed by the governor, one of whom shall be the secretary of public safety, and one of whom shall be the commissioner of the department of public health, the chair of the parole board, a representative of the Massachusetts Correctional Officers Federated Union, a representative from the Massachusetts Correctional Legal Services, a representative of the American Civil Liberties Union of Massachusetts, League of Women Voters, a representative from the Massachusetts Council of Churches, the Executive Director of the Massachusetts District Attorney Association or his designee, and a representative of the Victim and Witness Program. The board shall be jointly chaired by 1 member from the senate and 1 member from the house of representatives, both of whom to be annually elected by a majority vote of the board. All members shall serve a term of 2 years. No member of said board shall be appointed to serve more than 2 consecutive terms. Said board shall annually elect a chairperson. Said board shall adopt bylaws to govern its own proceedings.

The Correction Citizen Review Board shall have the following duties: (a) It shall study the medical services, including mental health service, and educational, vocational, employment and rehabilitation programs available to prisoners; (b) It shall review the annual budget of the department of correction and shall make recommendations to the house and senate committees on ways and means in regard thereto; (c) It shall report on the general state of correctional facilities within the commonwealth, their administration of correctional policies and practices, the living conditions of inmates therein, the general state of working conditions of employees within the department of correction and, where appropriate, the impact of the department of correction policies and inmate living conditions upon rates of recidivism and over-classification; (d) It shall hold quarterly meetings; (e) It shall advise the commissioner of the

department of correction on policy development and priorities for the department of correction facilities as well as the department’s compliance with legislative and judicial mandates; and (f) It shall issue public reports annually to the department of correction and the joint committee on public safety. (g) it shall report annually on the staffing of Unit 4 positions, so-called, in each state correctional institution. Such report shall include, but not be limited to, the following: The number of Unit 4 positions broken down by correctional institution, and the number of Unit 4 positions vacant; the number of Unit 4 positions lost to retirement, discharge or resignation and the number that have been replaced; a breakdown by correctional facility of the staff hours of overtime worked by Unit 4 personnel and the annual aggregate costs related to this overtime; the number of reported assaults upon Unit 4 personnel; the number of Unit 4 personnel out on industrial accident leave, and for each individual, the length of time on leave.”; and

By adding at the end thereof the following seven sections:

“SECTION 141. (a) There is hereby established a special commission to study the impact and effects of abuse OxyContin and other prescription illicit drugs, including but not limited to, Duragesic, Klonopin, Methadone, Morphine, Vicodin, cocaine, heroin, GHB and MDMA, as well as their generic equivalents, on youth in Massachusetts. The commission shall consist of three members appointed by the Speaker of the House, including the House Chair of the Joint Committee on Health Care, three members appointed by the Senate President including the Senate Chair of the Joint Committee on Health Care, the Commissioner of the Department of Mental Health (DMH), the Commissioner of the Department of Public Health Drug Control Program and three members of the medical community with specialty experience in prescription drug regulations and abuse. Said commission shall study the prescription, dispensing, treatment and education of said drugs and shall submit a report, including legislative recommendations, if any, to the Joint Committee on Health Care and the House and Senate committees on Ways and Means by June 15, 2005.

SECTION 142. Notwithstanding any general or special law to the contrary, chapter 26 of the acts of 2003, in section 2, in item 8000-0010 is hereby amended by inserting at the end thereof the following:—

‘provided further, that \$85,000 shall be provided for community policing in Framingham; provided further, that \$40,000 shall be provided for community policing in Ipswich; provided further, that \$40,000 shall be provided for community policing in Hamilton; provided further, that \$80,000 shall be provided for community policing in Newburyport; and provided further, that \$165,000 shall be provided for community policing in Dudley Square section of Roxbury in the city of Boston.’.

SECTION 143. Section 13A of chapter 30A of the General Laws, as appearing in 2002 Official Edition, is hereby amended by adding the following sentence at the end thereof:—

The Registrar of Motor vehicles shall not issue new or renewal drivers’ licenses bearing on its face the driver’s social security number

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unless the driver has affirmatively requested that the license bear his or her social security number in lieu of another number.

SECTION 144. Sub-section (c) of section 2F of chapter 90, as most recently amended by section 87 of chapter 46 of the acts of 2003, is hereby amended by striking it in its entirety and inserting in place thereof the following sub-sections:—

(c) Distinctive registration plates to be considered by the registrar pursuant to this section shall include, but not be limited to, plates that will benefit the following agencies, charities, causes or non-profit organizations: The Jimmy Fund for the purpose of assisting their efforts in cancer treatment, research and prevention; The American Cancer Society for the purpose of assisting their efforts in cancer treatment, research and prevention; the establishment of a children’s education fund to assist local cities and towns in purchasing textbooks for their school systems; the establishment of a library preservation trust fund to assist the commonwealth’s public libraries in purchasing books, periodicals and other literature and equipment; the Black United Fund of Massachusetts; the establishment of a Diane Zaniboni breast cancer research fund to be coordinated by the department of public health; the pharmacy assistance program; The Humane Coalition for the purposes of instituting animal control programs; The Rotary Foundation; The Springfield Library and Museum Association for the purposes of creating and supporting a Dr. Seuss Museum in the city of Springfield; The New England Chapter of Transplant Recipients International Organization, Inc. for supporting organ and tissue donation and outreach efforts; the department of environmental management for the maintenance of historical vessels; the University of Massachusetts scholars fund and alumni fund; the establishment of an agricultural trust fund to promote and enhance the viability of agriculture; the establishment of a violence prevention education program to be coordinated by the department of education; an open space acquisition program to be coordinated by the executive office of environmental affairs; the Second Century Fund coordinated by the department of environmental management for the maintenance, preservation and operation of the state park system; the establishment of a fund to assist in the maintenance and preservation of historical monuments; the establishment of a youth hockey promotion fund to offset the costs of participating in youth hockey and promote improvement of parent and player behavior; the Massachusetts Lions Eye Research Program and the Lazarus Program; the establishment of a Massachusetts AFL-CIO scholarship trust fund to promote the study of labor history and to provide scholarship assistance to Harvard University’s trade union program; the establishment of a future of nursing fund to assist in efforts to address the shortage of nurses; and cities and towns for the purpose of supporting local programs as organized by a single city or town or a state-wide organization on behalf of all cities and towns.

(d) The registrar shall design, produce, issue and regulate the use of distinctive registration plates proposed by any agency, charity or non-profit organization in the commonwealth that has satisfactorily complied with the conditions and requirements set forth in sub-section (a).

SECTION 145. (a) There is established a task force to study reflectorized safety number plates, within available appropriations. The task force shall study the feasibility of a state-wide license plate reissuance for passenger and commercial vehicles. Such study shall include, but not be limited to: (1) The impact on the reduction of unregistered and uninsured motor vehicles; (2) the impact on state and local revenue; (3) the task force shall examine state-of-the-art digital technology. (b) The task force shall consist of the following members: (1) The Registrar of Motor Vehicles, or designee, (2) the Secretary of Public Safety, or designee, (3) a representative from the Department of Correction, (4) a representative from the Massachusetts Police Chiefs Association, (5) a representative from the Massachusetts Municipal Association, (6) a representative from the International Brotherhood of Police Officers, (7) the Chairmen from the Joint Committee on Public Safety, (8) the Chairmen from the House and Senate Committees on Science and Technology, (9) a Chairperson appointed by His Excellency, the Governor. (c) All appointments to the task force shall be made no later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority. (d) Not later than December 15, 2004, the task force shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to transportation. The task force shall terminate on the date that it submits such report.

SECTION 146. To increase further a sense of responsibility on the part of inexperienced drivers and to increase the safety of all legitimate users of the roadway system, including but not limited to, motorists, pedestrians, the disabled, bicyclists, and motorcyclists, the Registry of Motor Vehicles is hereby directed to undertake a study of their policies, programs, curricula, testing materials and publications to ensure that education requirements encompass the safety of all roadway users and such efforts to promote safety are integrated across all such policies, programs curricula testing materials and publications. The Registrar shall convene a study commission by September 1, 2004 whose membership shall include the following: the Registrar or her designee who shall serve as chair and as a non-voting member; a representative of the Governor’s Highway Safety Bureau appointed by the Sec. of Public Safety; one of three persons recommended by the Mass. Bicycle Coalition and appointed by the Secretary of Public Safety; one of three persons recommended by Walk Boston and appointed by the Secretary of Public Safety; a representative of the insurance industry appointed by the Registrar; one of three persons recommended by the motorcycle interests and appointed by the Secretary of Public Safety; the chairs of the House and Senate Committees on Public Safety or their designees; a representative of the driver education industry appointed by the Registrar. The Study Commission shall report to the Secretary of Public Safety, the Registrar of Motor Vehicles, the joint Committee on Public Safety and the House and Senate Committees on Ways and Means June 1, 2005.

SECTION 147. Notwithstanding any general or special law to the contrary, there is hereby established a study commission to review

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the troop strength of the Massachusetts state police, referred to hereafter as the commission. Said commission shall consist of the chair of the house committee on homeland security and federal affairs; the house and senate chairs of the joint committee on public safety; the house and senate chairs of the joint committee on criminal justice; the minority leader of the house or his designee; the minority leader of the senate or his designee; the secretary of public safety; the superintendent of the state police; the chief human resources officer of the human resources division of the commonwealth or her designee, and a representative of the State Police Association of Massachusetts. Said commission shall investigate the staffing needs of the Massachusetts state police, identify the impact of the current deficiencies in troop strength on the homeland security, law enforcement and general public safety responsibilities of the Massachusetts state police, and issue recommendations to address the problem of reductions in staffing levels at said agency. Said commission shall distribute its recommendations to the house ways and means committee and senate ways and means committee by December 1, 2004.”.

The amendments were adopted.

Engrossed Bill — Land Taking.

Lakeville,
land use.

The engrossed Bill authorizing a change in land use in the town of Lakeville (see House, No. 4112, amended) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill
re-enacted
(land taking),
yea and nay
No. 598.

On the question on passing the bill to be re-enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 598 in Supplement.]

Therefore the bill was passed to be re-enacted, without amendment; and it was signed by the Speaker and sent to the Senate.

Recess.

Recess.

At nine minutes after nine o'clock P.M. (Monday, April 26), on motion of Mr. DiMasi of Boston (the Speaker being in the Chair), the House recessed until the hour of ten o'clock A.M. on Tuesday, April 27.